

REMARKS/ARGUMENTS

Claims 13-24 remain in this application. No new matter has been added to this application by way of any of the foregoing amendments.

In paragraph 1 the examiner pointed to the lack of an IDS. A formal IDS is being submitted herewith as Appendix C. The Applicant thanks the Examiner for pointing out this informality.

In paragraphs 2, 3, and 4 the Examiner objected to the drawings. The applicant has amended the drawings to overcome the Examiner's objections. Revised formal drawings are submitted herewith as Appendix A.

In paragraphs 5 and 6 the Examiner objected to the format of the specification. The Applicant has amended the specification and included the revised specification herewith as Appendix B.

In paragraph 7 the Examiner objected to drawings 10-12 as depending from previously cancelled claims. Please cancel Claims 10 -12 of this application.

In paragraph 8 the Examiner objected to the numbering of Claims. The Applicant thanks the examiner for pointing out and correcting this informality.

Claim Rejections Under 35 U.S.C. §102 (b), Third Paragraph

In paragraph 10 of the Office Action, the Examiner rejected claims 13-24 under 35 U.S.C. § 102(b), as being anticipated by Berger et al. (EP 0,704,255). It is respectfully submitted that the Examiner has not established a prima facie case of anticipation. "Anticipation is established only when a single prior art reference

discloses expressly or under the principles of inherency, each and every element of the claimed invention.” RCA Corp. v. Applied Digital Data Systems, Inc., (1984, CA FC) 221 U.S.P.Q. 385. The standard for lack of novelty, that is, for “anticipation,” is one of strict identity. To anticipate a claim, a patent or a single prior art reference must contain all of the essential elements of the particular claims. Schroeder v. Owens-Corning Fiberglass Corp., 514 F.2d 901, 185 U.S.P.Q. 723 (9th Cir. 1975); and Cool-Fin Elecs. Corp. v. International Elec. Research Corp., 491 F.2d 660, 180 U.S.P.Q. 481 (9th Cir. 1974). “A rejection for anticipation under §102 requires that each and every limitation of the claimed invention be disclosed in a single prior art reference.” In re Paulsen, 31 U.S.P.Q.2d 1671, 1673 (Fed. Cir. 1994)(emphasis added).

Specifically independent Claims 13 and 18 of this disclosure include the limitation that the plunger can be coupled with the needle holder to retract the needle holder together with the syringe needle into the cylinder. The Berger reference shows a needle holder that couples to the exterior of the syringe body and is therefore incapable of being retracted into the cylinder as required by the claims of the present disclosure. The Applicant respectfully submits that the Claims are allowable over the Berger reference and respectfully requests they be allowed.

Having responded to each of the Examiner’s concerns, Applicant asserts that the application is now in condition for allowance and solicits such action. No new matter has been added by the foregoing amendments. If a telephone interview will advance the allowance of the application, enabling an Examiner’s amendment or other


meaningful discussion of the case, Applicant requests the Examiner contact Applicant's representative at the number listed below.

It is not believed that any additional fees are due; however, in the event any additional fees are due, the Examiner is authorized to charge Applicant's attorney's deposit account no. 03-2030.

Respectfully submitted,

CISLO & THOMAS LLP

Date: July ^h19, 2004



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Enclosures:

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